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SUBJECT: Mauritania: 2007 Investment Climate Statement

Ref: State 178303

Mauritania - 2007 Investment Climate Statement

1. This statement replaces the 2006 Investment Climate Statement for Mauritania. The 2007 statement appears as a chapter in the updated Country Commercial Guide.

OPENNESS TO FOREIGN INVESTMENT

- 2. The Government of the Islamic Republic of Mauritania continues to encourage foreign direct investment and economic liberalization. The government's investment and development policy emphasizes private sector development, seen as the main engine of economic growth. In line with ongoing World Bank/IMF structural reform programs, the government privatized several parastatals in the late 1990's, encouraging foreign investors to purchase shares. The orientation towards privatization and liberalization is expected to continue in 2007 but this will depend largely on the March presidential elections.
- 3. The current Investment Code is the principal official source for laws and information related to the country's investment regime. It is designed to encourage direct investment, facilitate administrative procedures, and enhance investment security. Direct investments are considered to be contributions in kind, labor, or capital that investors undertake, whether individuals or legal entities, and regardless of nationality, residence, or scale of the investment or enterprise (Art. 1 of the Code).

- 4. The investment code has reorganized the legal and institutional framework, extending the capacity of the Consolidated Office for Investments -- a "One-Stop Investment Shop" (Guichet Unique) for potential investors. The creation of the "Guichet Unique" in 1998 simplifies and facilitates the following:
- -- Applications for investment licenses
- -- Administrative formalities and procedures
- -- Establishment of business enterprises
- -- Acquisition of work permits for foreign nationals
- 5. During 2006, the transitional government continued to private investment in Mauritania. The Minister of Economic Affairs and Development reorganized some departments in the ministry and integrated the "Guichet Unique" into the Department of Private Sector Development in order to combine investment promotion and the development of private sector. In an attempt to attract private and foreign investment, an agency for investment promotion has been created within the same Ministry which will also review the existing investment code.
- 6. President Ely Ould Mohamed Vall formally launched the Presidential Council for Investment in Mauritania (PCIM) during January 2007. The PCIM is comprised of twenty one board members, including chairmen of international and Mauritanian companies, members of international professional organizations and local community members. The President of the PCIM will be the Head of State; the board is required to meet twice a year and it retains the right to invite any person who might contribute to the accomplishment of PCIM goals. The main goals include: (a) contributing to the promotion of investment opportunities; (b) identification of investment barriers and incentives to investment promotion; and (c) evaluation of relevant recommendations relating to the administrative procedures and institutional rules aiming to attract more foreign investors.
- 7. Privatization, liberalization, and investment incentives have figured prominently in Mauritania's World Bank and IMF-inspired economic programs. The following are the legal guarantees offered to any entity (national or foreign) wishing to invest capital under the investment code:
- -- Freedom of establishment and capital investment, in accordance with the laws and regulations in place (Art. 3.1)
- -- Freedom to transfer foreign capital (Art. 5.1)
- -- The ability to transfer professional income of foreign employees (Art. 5.2)
- -- The equal treatment of Mauritanian and foreign individuals and legal entities (Art. 6)
- 8. The investment code and the "Guichet Unique" laws are those that govern the foreign investment in Mauritania. These laws apply to all sectors of the national economy, with the exception of the following sub-sectors (which are governed by other specific laws and regulations):
- -- Purchasing for resale on the local market without further processing

- -- Activities governed by the current legislation on banking regulations, except for leasing activities
- $\operatorname{\mathsf{--}}$  Activities governed by the current regulations on insurance and reinsurance
- -- Activities in the mining and hydrocarbons sectors
- -- Communications and telecommunications
- -- Water and electricity supply
- 9. The "Guichet Unique" selects and recommends useful investment projects to the Council of Ministers, whose meetings are chaired weekly by the Heard of State. In general, all projects submitted to the Council of Ministers are accepted. In 2006, the Government approved 13 industrial projects covering all economic sectors, excluding mining and hydrocarbons amounting to 7.2 billion Ouguiyas (about USD 26.5 million) and creating four hundred and ninety jobs. According to the Government officials in charge of the investment promotion, foreign direct investment is increasing in number and value since 2002.
- 10. Vendors for large, government-directed projects are usually selected through a tender process. After issuing an invitation to tenders, the Central Market Commission ("Commission Centrale des Marches") selects the offer that best fulfills Government requirements. The screening process, in principle, should be transparent, routine and non-discriminatory; it does not impede investment nor limit competition.
- 11. No sectors are closed to investment. The mining, fishing, agricultural, banking, hydrocarbon and tourism sectors actively seek foreign direct investment. The investment code identifies activities eligible for the Duty-Free Zones Program ("Points Francs"), which guarantees certain advantages, such as exemption from export duties and taxes (Art. 8.1). This provides incentives for businesses that produce goods and services intended exclusively for export, and/or that develop exports of Mauritanian-manufactured products. However, businesses that are not qualified for these incentives are demanding for a revision on the investment code to allow universal incentives.
- 12. Foreign investors generally receive the same treatment as Mauritanian investors, subject to the provisions of treaties and agreements concluded by the Government with other countries (Art. 6.1, 6.2 and 6.3 of the investment code). Foreign investors have the same access as Mauritanians to courts of law (Art. 7.1 and 7.2). Nonetheless, the success of foreign investors will depend in large part on their successful collaboration with local partners who understand the local market and government. Contracts are protected by the civil and commercial codes, although court enforcement and dispute settlement can in practice be difficult to obtain.
- 13. Deep offshore as well as potential onshore oil and gas has attracted major foreign companies. To date, Australia's Woodside Energy Ltd. and Dana Petroleum of the U.K. are the major share partners and operators of the offshore Blocs 1 through 8, under Production Sharing Contracts. Production started on February 24, 2006, with an initial flow of around 70,000 barrels a day but production fell dramatically to around 23,000 barrels in January

- 2007. Experts are studying measures to raise this production to 75,000. Woodside is drilling additional wells to increase production. Prospects for further growth in the offshore oil sector are promising. Mining, which initially focused on iron development, continues to offer good potential. Among the many unexplored natural resources are gold, diamonds, copper, gypsum, uranium and hydrocarbons.
- 14. The new information technology sector is growing and there has been some major foreign and domestic private investment in telecommunications, in particular, Mauritanian-Tunisian, Mauritanian-Moroccan and the recent Mauritanian-Sudanese joint ventures. In addition, the country offers potential in the hospitality and tourism sector; however, major investment is needed to create the necessary and required infrastructure and specialized services.
- 15. With the exception of fishing companies (where foreign investment is limited to a 49 percent share), Mauritania has no discriminatory policies against foreign investment, imports, or exports. Mauritania is a signatory of the EU/ACP Lome Convention, which gives underdeveloped nations certain advantages and preferential treatment when exporting or importing some products to or from EU member countries. Mauritania is also a member of the Arab Maghreb Union, which was created in 1988 to work toward the political and economic integration of Algeria, Libya, Mauritania, Morocco, and Tunisia. Stated economic goals include a common market with a single currency, Maghreb-wide corporations, unified customs zones, and freedom of movement for capital and individuals.
- 16. Mauritania has been a member of the Multilateral Investment Guarantee Agency (MIGA) since 1996, which protects direct foreign investment against political risks. Mauritania also has bilateral agreements with France, Belgium and Romania for investment promotion and protection. Other agreements exist with Burkina Faso, Cameroon, Gambia, Ghana, Mauritius, Italy, Lebanon, Qatar, Yemen, Korea, Arab League, Egypt and OPEP Funds. Negotiations are underway for investment treaties with South Africa and Malaysia.

## CONVERSION AND TRANSFER POLICIES

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- 17. There are no legal or policy restrictions on converting or transferring funds associated with an investment. Any investor is guaranteed the free transfer of convertible currencies at a legal market rate, subject to the availability of such currencies. Similarly, foreigners working in Mauritania are guaranteed the prompt transfer of their professional salaries. (Art. 5.2).
- 18. The local currency, the ouguiya, is freely convertible within Mauritania and its exportation is not legally authorized. Hard currencies can be easily found either in commercial banks or in parallel markets. The exchange rate gap between the two markets closed considerably in 2006, from nearly 12 Ouguiya in January 2006 to about 5 Ouguiya in February 2007, due to the monetary policy the Central Bank implemented in 2006.

- 19. Hard currency is now available in commercial banks due in part the implementation of the new policy of fish export revenues repatriation. The Central Bank, Ministry of Fisheries and the Ministry of Finance decided fish export revenues collected from fishing licenses must be deposited in local primary banks instead of the Central Bank and only 50% of SMCP (Societe Mauritanienne de Commercialisation de Poisson) receipts in foreign exchange can be transferred to the Central Bank. This measure allows for the availability of foreign exchange deposits in the commercial banks. As a result, individuals and companies may easily obtain hard currencies through their banks for the payment of purchases or the repatriation of their dividends, as long as these transactions are legally justified.
- 20. Other important measures the Central Bank has introduced in 2006 include the signature of agreements with European banks to allow the transferring funds of foreign investors in the country and the authorization to open bank accounts in hard currencies for both Mauritanians and foreigners. Foreigners may repatriate their assets through a bank transfer from their local bank account in hard currencies to their foreign bank account, directly, or through a third bank in a foreign country. This measure has simplified foreign payments and money transfers.

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## EXPROPRIATION AND COMPENSATION

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21. The Investment Code ensures that, if the Government expropriates private property, the Mauritanian government will provide appropriate and prompt compensation, exempt from duties and taxes (Art. 4 and 5.1.c). There are no cases of expropriation currently in Mauritania. Only one government expropriation has occurred since independence: the takeover of the French mining company, MIFERMA, in November 1974. Compensation was paid by mutual agreement between the two parties. In 2003, the Mauritanian government annulled a major contract with a British company, covering national petroleum supplies and management of storage and refining facilities in Nouadhibou. Again, compensation was negotiated and paid by mutual agreement between the two parties. The Civil Code, in addition to the mining and fishing codes, determines ownership in all sectors of the economy.

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Dispute Settlement

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- 22. There have not been any investment disputes over the past years, but on February 2006, the GIRM began a dispute with Woodside Petroleum Ltd over four amendments of the original Production Sharing Contract (PSC) that primarily dealt with oil revenues and environmental issues. Woodside agreed to cancel the four amendments and paid USD 100 million and set up an environmental fund fifteen days after the signature of a new PSC.
- 23. Disputes between individuals or legal entities and the Government related to the investment code are settled by an

arbitration procedure to which both parties have agreed, and in accordance with the following agreements (Art. 7.2 of the investment code):

- -- The 1965 Convention on the Settlement of Disputes Related to Investments between States and Nationals of other States, also known as the Washington Convention.
- -- The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
- -- Other agreements and treaties that have been concluded between the government and the state of the concerned individual or legal entity and which address the protection of investments.
- 24. Absent other arrangements between the parties, an ad-hoc arbitration court will be set up in accordance with the rules of arbitration of the United Nations Commission on International Trade Law (Art. 7.2.c. of the investment code). Official mechanisms for enforcing property and contractual rights are Ordinance no. 89-126 creating the Contracts and Obligations Code; Law no. 99-035 creating the Civil, Commercial and Administrative procedure Code; and Law no. 2000-06 creating the Arbitration Code.
- 25. The country has a Commercial Code and related civil laws, but application and enforcement remain limited. The country does not have bankruptcy laws. The government accepts binding international arbitration of investment disputes between foreign investors and government authorities. In addition, there are domestic mechanisms for arbitration, both through traditional religious institutions and through the courts.

Performance Requirements and Incentives

- 26. Mauritania is in a transitional stage with respect to application of its WTO commitments. The Government offers tax benefits, including exemptions in some instances, to enterprises in the priority sectors listed in its investment code. In the case of imported "dumped" goods, deemed to be competing unfairly with a priority enterprise, the Government will respond to industry requests for tariff surcharges, thus providing some potential protection from competition. The Government is often willing to provide free land for industrial and farming investments.
- 27. There are no performance requirements beyond those that might be indicated in individual investment agreements and no requirements for local financing. There are some rules governing the percentage of host country nationals employed, but the Government is flexible on this point. Industrial fishing crews are encouraged to have, on average, five Mauritanian crewmembers per vessel. Foreign firms are encouraged to participate in government-financed research and development programs.

Right	to	Private	Ownership	and	Establishment

28. Mauritania guarantees any individual or legal entity wishing to undertake business activities on its territory the freedom of establishment in accordance with the laws and regulations in force (Art. 3.1). Private entities may freely establish and own business enterprises, and engage in all forms of remunerative activity. Privatization and liberalization programs have also helped put private enterprises on an equal footing with respect to access to markets and credit.

Protection of Property Rights

- 29. Property rights are protected under the Mauritanian Civil Code, which is modeled on the French Code. However, biased application of the law by the Mauritanian judiciary has been a problem for some local companies. In practice, it can be difficult to gain redress of grievances through the courts. Mortgages exist, however, and are extended by the commercial banks. There is a well-developed system of registration of property in land and real estate. The "Direction des Domaines" at the Ministry of Finance is developing a system to protect land and building property rights.
- 30. Mauritania is a member of the MIGA and the African Organization of Intellectual Property (OAPI). In joining the latter, member states agreed to honor intellectual property rights principles and to establish uniform procedures of implementation. These international agreements include the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Hague Convention for the Registration of Designs and Industrial Models, the Lisbon Convention for the Protection and International Registration of Original Trade Names, the World Intellectual Property Organization, the Washington Treaty on Patents, and the Vienna Treaty on the Registration of Trade Names. In addition, Mauritania signed and ratified the WTO TRIPS (Trade Role on Intellectual Property and Service) agreement in 1994 but has yet to implement it. The government has also signed and ratified the WIPO (World Intellectual Property Organization) treaties in 1976.

Transparency of the Regulatory System

31. Privatization and liberalization have been underway since 1994. In the process, the Government has adopted laws that discourage anti-competitive practices and that authorize the creation of consumer interest groups. In 1999 the Government created an "Autorite de Regulation," an agency charged with overseeing the privatization process, using transparent policies and laws to foster competition thorough the bid process. There is not a law or policy in force that impedes foreign investment in Mauritania. Private sector associations exist and their laws and regulations do not discriminate foreign investment.

32. On February 22, 2006, the GIRM officially accepted the Extractive Industries Transparency Initiative (EITI) in order to increase transparency in the use of revenues drawn from mining and petroleum industries and the Premier Minister led a government meeting for officially installing the EITI national committee in their duties. As noted earlier, the Government established the Mauritanian Investment Window ("Guichet Unique") in 1997 in order to streamline bureaucratic procedures for investment. This office has since been renamed the Consolidated Investments Office, and its services have expanded. As a result, transparency has increased and bureaucratic procedures reduced.

Efficient Capital Markets and Portfolio Investment

33. Government policies encourage, in principle, the free flow of financial resources, and there are no restrictions on access by foreign investors. Most foreign investors, however, prefer external financing, due to the high interest rates and procedural complexities that prevail locally. Credit is often difficult to obtain, and dependent on special relationships with bank owners and officials. Capital assets of the largest banks could be estimated at about \$7 million. Credit is quite restrictive, and the extent of bad loans is accordingly quite limited.

The government has emphasized banking sector reform. Considerable restructuring has occurred and, with computerization, banking management has improved steadily since 2004. Both the accounting system and regulations covering investments are based on the French model. Nevertheless, deficiencies persist in the enforcement of laws and regulations.

- 34. During December 2006, the Council of Ministers gave detailed responsibilities to the Central Bank intended to monitor the stability of financial systems and help the government to carry out its economic policy. Since January 2007, the Central Bank is now subject to an outside audit in addition to its own internal audit. The Governor of the Bank will be held responsible by the government for the annual balance sheet.
- 35. There is no stock market or other public trading of shares in Mauritanian companies. Individual proprietors, family groups, and partnerships generally hold companies. They cannot be freely bought into by outsiders, and portfolio investment is accordingly quite limited.

Political Violence

36. In August 2005, a coup d'etat overthrew the legitimate government in place. A self-appointed "Military Council for Justice and Democracy" (CMJD) dissolved the parliament and appointed a transitional government. The junta and transitional government released an election timeline, culminating in presidential elections in March 11, 2007, and a return to civilian rule by May 2007. It

also invited the United Nations, the European Union, the African Union and other partners to assist in organizing the elections. A national constitutional referendum limiting important powers of the president was held in June. The referendum was widely supported by Mauritanian voters and deemed free and fair by the international community. The legislative and municipalities elections were held in November and the senatorial elections were held in January 2007. All these elections were considered fair and transparent by observers and political parties as well.

37. The coup d'etat that occurred on August 3, 2005 did not provoke any incidents of violence and normal economic activity resumed the following day. There has been no violence against foreigners or economic installations during these last two years. Mauritania continues to maintain good relations with the neighboring countries of Senegal, Mali, and Morocco.

Corruption

- 38. Corrupt practices are widely believed to exist at all levels of Mauritanian government and society. Wealthy business groups and government officials reportedly receive frequent favors from authorities, such as unauthorized exemption from taxes, special grants of land, and favorable treatment during bidding on government projects. Mauritanian and non-Mauritanian employees at every level, and in every organization, are believed to flout Mauritanian tax laws and filing requirements. The only exceptions to this are the employees of the Mauritanian government, whose income taxes are automatically deducted from their pay. This widespread corruption deprives the central government of a significant source of revenue, weakening the capacity of the government to provide necessary services.
- 39. Anti-corruption measures exist, but they have not been effectively enforced. Although the new government has subscribed to a broad good governance program, giving or accepting bribes is still not considered a criminal act under current Mauritanian law. Mauritania is not a signatory to the OECD Convention on Combating Bribery. Corruption is most pervasive in government procurement, bank loans, fishing license attribution, land distribution, and tax payments.
- 40. There is no systematic annual auditing of government accounts; however, the government has rectified previously misreported data, and completed other transparency measures, such as publishing quarterly financial statements and placing them on a government website (www.tresor.mr). The only international organization for transparency that operates in Mauritania is the Swiss-based Societe Generale de Surveillance (SGS), confined to the inspection of imports.

Bilateral Investment Agreements

41. Mauritania has bilateral investment agreements and investment protection with member countries of the Arab Maghreb Union (Algeria, Libya, Morocco and Tunisia) as well as with Saudi Arabia, France, Belgium and Romania (para 15). In addition, Mauritania is a signatory to the Cotonou Agreement between the European Union (EU) and the group of African, Caribbean and Pacific (ACP) countries, and thus enjoys free access to the EU market. As a least-developed country, Mauritania benefits from duty-free access to the European market under the Everything-But-Arms initiative. Since 1987, the Government has signed four fishery agreements with the European Union, the last covering the period August 2006 - July 2012. Mauritania has no bilateral investment or taxation treaties with the United States.

OPIC and Other Investment Insurance Programs

42. Mauritania currently qualifies for OPIC coverage, but its program is very limited. Potential investors should contact OPIC directly for guidance. A British-Mauritanian insurance company -- Atlantic Londongate -- offers broad commercial coverage. As noted earlier in paragraph 16, Mauritania is a member of the Multilateral Investment Guarantee Agency (MIGA). The estimated annual U.S. dollar value of local currency used by the Embassy is USD 9.7 million. The Embassy purchases the local currency at an official rate of 271 Ouquiya for one dollar.

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- 43. There is a shortage of skilled workers and well-trained technical/managerial personnel in most sectors of the economy. The mining sector is an exception. Professional training centers exist in major cities of the country; any company or Government agency interested in improving its employees' skills can do so. Mauritania's population is quite young, with 64 percent of its citizens under 25 years. Government sources estimate that unemployment for males over 18 runs as high as 33 percent. There are unrealistically high expectations of employment in the nascent petroleum sector, where the leading company, Woodside (Australia), is making an effort to train and use local personnel.
- 44. Mauritania is a signatory of the ILO Convention. In October 2004, Government updated the Labor Code to conform to 2004 ILO Conventions 138 and 182. It has organized a forum on labor laws and has worked with UNICEF on a survey of two major cities (Nouakchott and Kiffa). In November 2005, the Department of Labor organized a forum on basic worker rights and distributed the newly approved Labor Code issued by the Law no. 017/2004 of July 10, 2004 that suppressed the 1963 original code. The new government has taken steps to reduce unemployment. The National Agency for the Promotion of the Employment of Young Adults was created in order to help new graduates look for their first job. In 2006, this agency accepted over 15,000 applications.

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## Foreign Trade Zones/Free Ports

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- 45. There are no duty-free import zones. However, the current investment code has introduced a Duty-Free Points Regime ("Regime des Points Francs ou Incitations a l'Exportation") for the exclusive use of designated exporting companies to encourage exports. The following are eligible for the Duty-Free Point Regime (Art. 8):
- -- Production activities and provision of services intended exclusively for exportation.
- -- Activities intended indirectly for exportation through the complete and exclusive sale of goods or services to enterprises, which export directly. The Duty-Free Points consist of facilities where such activities are carried. They are placed under the control of the Customs Administration (Art 8.2). Companies under the Duty-Free Point Regime are exempt from any export duties and taxes (Art. 9).

Foreign Direct Investment Statistics

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46. Up to date data on foreign investment is not available, except those relating to the new sectors of hydrocarbon and telecommunications. Mauritania is reported to have received about USD 1.4 billion in foreign direct investment between 2003 and 2006. Exploration and exploitation of hydrocarbon deposits and other minerals, including iron and gold, as well as telecommunications (GSM licenses) and construction were major areas of investment in 2006.

Foreign private investors in Mauritania include the following:

LOCAL AFFILIATE FOREIGN PARENT NATIONALITY

AGS AGS France France

CGA N/A Japan

Grands Domaines N/A France de Mauritanie

Mercure Hotel Accor Group France

NOVOTEL Hotel Accor Group France

ORYX-Mauritanie ADDAX & Oryx Switzerland

SIPECO Ifafood France

MAFCI N/A France

SODIAP Potarg Ireland

Famo-Mauritanie N/A Switzerland

Rex Diamond Rex Diamond Belgium Belgique

M.C.P. CNF China

DHL DHL Germany

Mattel Tunisie Telecom Tunisia

Mauritel Mobiles Maroc Telecom Morocco

TOTAL-Mauritanie TOTAL Oil France

SMP Atlas Atlas Morocco

Grands Moulins ACODIS France

de Mauritanie

NAFTEC NAFTAL Algeria

Woodside-Mauritania Woodside Resources Australia

Dana Petroleum Dana Petroleum Scotland

Maersk Maersk Denmark

B.H.P. Minerals Australia

SOGECO SAGA Group France

UPS UPS U.S.A.

CODIMEX TOYOTA Japan

S.G.S.- Mauritanie SGS Switzerland

Sinergie Sinergie-Belgique Belgium

Emirates

Dia Met Minerals Dia Met Minerals South Africa

Schenker Schenker Germany

Wintershall Wintershall Germany

Ashton West Africa Ltd. Rio Tinto United Kingdom

Sphere Investments Sphere Investments Australia

Mauritanian First Quantum Canada Copper Mines (M.C.M.)

Tasiast Mauritanie Ltd. Defiance Mining Canada

Banque Internationale Societe General France Investissement des Banques

BNP-Paribas Mauritanie BNP-Paribas France

Repsol\_Mauritanie Repsol Spain

Wadi Al Rawda Wadi Al Rawda United Arab Emirates

CNPC International CNPC China Mauritania Ltd.

Premier Oil Premier Oil United Kingdom

Sterling Energy Sterling Energy United Kingdom

Chinguitel Sudatel Sudan

Burns Trading Burns Trading Australia

Nanton International Nanton International Spain

EL Aouj, S.A. Sphere Investment Australia

Peaks Metals Peaks Metals Qatar

Triton SNB Mines, Ltd. Triton SNB Mines Australia

Medis Belgium Medis Belgium Belgium

TWINING

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